

SPECIAL JOINT MEETING
CITY OF BEMIDJI ~ NORTHERN TOWNSHIP
Tuesday, June 16, 2015
Northern Town Hall
7:00 pm.

PRESENT:

City Council: Mayor Rita Albrecht, Nancy Erickson, Michael Meehlhause, Dave Larson, Ron Johnson, Reed Olson **Absent:** Roger Hellquist

City Staff Present: City Manager Nate Mathews, City Attorney Alan Felix, Public Works Director Craig Gray, Finance Director Ron Eischens, City Clerk Kay Murphy

Northern Township: Chair Mike Kelly, Clark Chambers, Paul Weise, Curt Blumhagen, Tim Mountain and Northern Town Clerk Mary Israelson

Legal Counsel: Jason Kuboushek, Iverson Reuvers

Mayor Albrecht called the special joint meeting to order at 7:00 p.m. The purpose of the meeting was to discuss the recent settlement offer extended Birchmont Drive Appellants and options respecting the next action(s) to be taken in the re-assessment process in the wake of the ruling by Judge Cahill.

Legal Counsel Jason Kuboushek began by recognizing the very recent receipt of a responsive counteroffer by Appellants to the settlement offer. He then reviewed and summarized the entire assessment process to date, including the most recent exercise of attempting to apply the City's Policies for Public Improvements (PIP), which exercise formed the basis of the recent settlement offer. He also clarified which amended version of the PIP that was used, specifically the version that was in place at the time of project as per Judge Cahill's ruling. He summarized that the PIP essentially calls for half of the assessable Project costs being divided up equally to the benefitted properties, with the remaining half being divided based upon a front foot basis.

Mr. Kuboushek then related that on April 28, 2015, he had provided an "offer" to the appellant's attorney Zenas Baer along with a letter that set forth what the City and Northern Township felt was a fair settlement offer based upon the PIP analysis. The offer extended each property owner the option of the "lesser" amount of the econometric modeling benefit estimate or the amount determined under the PIP analysis. He pointed out that the offer, if accepted, would result in a shortfall of approximately \$400,000 that the City and Northern Township would need to address or share from other funding options.

Mr. Kuboushek concluded by saying that there had been no response at that time this meeting was scheduled; however, the counter proposal had arrived on Friday, June 12, and that the Appellants had performed their own analysis of the PIP and concluded their obligation should be to pay \$3,982.90 (or 25% of approximately \$16,000 assessment for both water and sanitary sewer).

Northern Town Board Chair Kelly stated his Board's concerns that for a second time an offer was made to the Birchmont Drive appellants which apparently was not timely relayed to them if relayed at all. He also stated that it is important to note that Northern Township has spent approximately \$200,000 in legal and professional fees from its general fund, and that these appeals have been going on seven plus years and everyone would like to get this finally resolved. He then opened the meeting to hear comments from those in attendance.

Loree Pederson, 5204 Birchmont Drive, asked for the date of the PIP that was used in calculating the assessments. Kuboushek responded that it was April 6, 1998 as revised in March 2001, and which was directly cited by Judge Cahill.

Rod Pickett, 5712 Birchmont Drive, stated that the ruling from Judge Cahill ruled against econometric modeling and that the assessment had to be 25% of the amount determined by application of the PIP, and, consequently, he had been advised by his attorney not to accept the offer.

Carl Drahos, former resident at 5126 Birchmont Drive, spoke at length about perceived shortcomings of the various assessment procedures used, specifically critical of the econometric modeling process and the consultant providing it.

Shari Schluchter, 308 Elm Street NE, spoke and suggested that the parties consider entering into mediation.

Craig Hogan, 156 Kenwood Circle, stated he paid his assessment and is not part of the litigation and felt that any final resolution should be equitable to all the property owners, including those who didn't appeal in the first place. He asked if his assessment would be refunded if there is a different amount. Kelly responded that those not part of the appeals would not receive any refund.

Jim Humeniuk, 6002 Shady Lane NE, noted that the City is incurring the additional costs in the form of lost interest from assessment payments not being timely paid to retire the bonds sold to finance the Project, and that Northern Township at the same time continues to pay out of pocket for legal counsel, which costs are coming out of all Northern resident's pockets.

Discussion wound down with no clear directed action offered other than that Mr. Kuboushek would be responding to the Appellants' counteroffer.

With no further business the meeting adjourned at 8:25 p.m.

Respectfully submitted,


Kay M. Murphy
City Clerk